

ESTTA Tracking number: **ESTTA658452**

Filing date: **02/27/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	Schlotterbeck & Foss Company
Granted to Date of previous extension	04/01/2015
Address	117 Preble Street Portland, ME 04101 UNITED STATES

Name	Schlotterbeck & Foss Company
Granted to Date of previous extension	04/01/2015
Address	117 Preble Street Portland, ME 14101 UNITED STATES

Name	Schlotterbeck & Foss Company
Granted to Date of previous extension	03/01/2015
Address	117 Preble Street Portland, ME 04101 UNITED STATES

Correspondence information	Jeffrey C. Joyce Bohan Mathers, LLC P.O. Box 449 Portland, ME 04112-0449 UNITED STATES trademarks@bohanmathers.com Phone:2077733132
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Applicant Information

Application No	86149005	Publication date	12/02/2014
Opposition Filing Date	02/27/2015	Opposition Period Ends	04/01/2015
Applicant	Big Idea Holdings, LLC 900 Work Street Salinas, CA 93901 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Packaged organic salad mixes consisting of fresh cut and processed vegetables sold as a unit or as individually packaged components; organic fruit salads; organic vegetable salads; organic legume salads; organic antipasto salads; organic potato salads; organic garden salads; organic dried fruit and dried fruit for use in salads; organic cheese and cheese for use in salads; organic processed nuts and processed nuts for use in salads; organic sliced fruits and vegetables

Applicant Information

Application No	86149018	Publication date	12/02/2014
Opposition Filing Date	02/27/2015	Opposition Period Ends	04/01/2015
Applicant	Big Idea Holdings, LLC 900 Work Street Salinas, CA 93901 UNITED STATES		

Goods/Services Affected by Opposition

Class 030. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Salad dressings, rice salads, pasta salads, croutons, breadsticks, all being organic

Applicant Information

Application No	86148992	Publication date	09/02/2014
Opposition Filing Date	02/27/2015	Opposition Period Ends	03/01/2015
Applicant	Big Idea Holdings, LLC 900 Work Street Salinas, CA 93901 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Beverages, namely, drinking water, bottled water, flavored enhanced waters, drinking water with vitamins, flavored waters, fruit juices, vegetable juices; all the foregoing made with organic ingredients

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3427309	Application Date	10/17/2005
Registration Date	05/13/2008	Foreign Priority Date	NONE
Word Mark	GOOD CLEAN FOOD		

Design Mark	GOOD CLEAN FOOD
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 1996/10/00 First Use In Commerce: 1996/10/00 Sauces and marinades

Attachments	76648662#TMSN.png(bytes) Notice of Opposition 86149005 86149018 86148992.pdf(97267 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jeffrey C. Joyce/
Name	Jeffrey C. Joyce
Date	02/27/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial Nos. 86149005, 86149018,
Published: December 2, 2014,
and Application Serial No. 86148992
Published: September 2, 2014,
For the mark: ORGANICGIRL GOOD CLEAN FOOD with design

Schlotterbeck & Foss Company,)	
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)	
v.)	Opposition No. _____
)	
Big Idea Holdings, LLC,)	
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CONSOLIDATED NOTICE OF OPPOSITION

Schlotterbeck & Foss Company, a Maine corporation having its principal place of business at 117 Preble Street, Portland, MAINE 04101 (“Opposer”) believes that it will be damaged by registration of the mark ORGANICGIRL GOOD CLEAN FOOD for goods in International Classes 29, 30, and 32 shown and identified in Applications Serial Nos. 86149005, 86149018, and 86148992 which were filed on December 19, 2013 by or on behalf of Big Idea Holdings, LLC, believed to be a Delaware limited liability company with a principal place of business at 900 Work Street, Salinas, California 93901 (“Applicant”) and hereby opposes same.

As grounds of opposition, Opposer alleges that:

1. Opposer is the owner of U.S. Registration No. 3,427,309 (the “Registration”) of the mark GOOD CLEAN FOOD (“Opposer’s Mark”) registered May 13, 2008, for use on “Sauces and marinades” in International Class 30 (“Opposer’s Goods”).
2. The Registration is subsisting, is not abandoned, and is incontestable.

3. Opposer is using Opposer's Mark, and Opposer and its predecessor Good Clean Food, LLC, have used Opposer's Mark in connection with Opposer's Goods continuously in interstate commerce throughout the United States since at least as early as October, 1996.
4. Opposer has invested considerable time, money, and effort into the marketing, advertising, and promotion of Opposer's Mark in connection with the sale of Opposer's Goods.
5. As a consequence of Opposer's long and continuous use of, and its considerable investment in marketing, advertising, and promotion of Opposer's Mark in connection with Opposer's Goods, Opposer's Mark has become distinctive of the single source of Opposer's Goods and as such is an asset of great value.
6. As a consequence of Opposer's long and continuous use of, and its considerable investment in marketing, advertising, and promotion of Opposer's Mark in connection with Opposer's Goods, Opposer's Mark has accrued and has significant and valuable goodwill among consumers.
7. Applicant applied to register ORGANICGIRL GOOD CLEAN FOOD with design elements ("Applicant's Mark") on December 19, 2013, in Applications Serial Nos. 86149005, 86149018, and 86148992 (the "Applications") for use on "Packaged organic salad mixes consisting of fresh cut and processed vegetables sold as a unit or as individually packaged components; organic fruit salads; organic vegetable salads; organic legume salads; organic antipasto salads; organic potato salads; organic garden salads; organic dried fruit and dried fruit for use in salads; organic cheese and cheese for use in salads; organic processed nuts and processed nuts for use in salads; organic sliced fruits and vegetables" in International Class 29, on "Salad dressings, rice salads, pasta salads, croutons, breadsticks, all being organic" in International Class 30, and on "Beverages, namely, drinking water, bottled water, flavored enhanced waters, drinking water with vitamins, flavored waters, fruit juices,

vegetable juices; all the foregoing made with organic ingredients” in International Class 32, respectively (collectively, “Applicant’s Goods”).

8. Applicant’s Mark is confusingly similar to Opposer’s Mark.
9. Applicant’s Mark incorporates the entirety of Opposer’s Mark without modification.
10. Opposer has not licensed or authorized Applicant’s use of Opposer’s mark in any way.
11. The addition of the house mark ORGANICGIRL and house design elements to Opposer’s Mark does not serve to distinguish Applicant’s Mark from Opposer’s mark and does not diminish the likely confusion between Applicant’s Mark and Opposer’s Mark.
12. Applicant’s Goods are closely related to Opposer’s Goods.
13. Applicant’s Goods are or will be sold in the same channels of trade as are Opposer’s Goods.
14. Consumers of Applicant’s Goods are the same class of consumers as the consumers of Opposer’s Goods.
15. Applicant’s Mark is so similar to Opposer’s Marks as to cause consumer confusion, mistake, and deceit within the meaning of Section 2(d) of the Act (15 U.S.C. § 1052(d)).
16. Opposer will be damaged by registration of Applicant’s applied-for mark in connection with Applicant’s Goods because such registration will afford Applicant the impression that Applicant has exclusive rights in Applicant’s Mark including Opposer’s Mark and the color of authority to use its confusingly similar mark in commerce in connection with Applicant’s Goods.
17. Opposer will be damaged by Applicant’s use of its applied-for mark in connection with Applicant’s Goods because such use is likely to give to consumers the false impression that Applicant has license and authority to use Opposer’s Mark.

18. Opposer will be damaged by Applicant's use of its applied-for mark in connection with Applicant's Goods because such use is likely to give to consumers the false impression that Opposer is the source of Applicant's Goods.
19. Opposer will be damaged by Applicant's use of its applied-for mark in connection with Applicant's Goods because such use is likely to give to consumers the false impression of an affiliation or other connection between Applicant and Opposer and/or the false impression of Opposer's sponsorship and endorsement of Applicant's Goods.
20. Opposer will be damaged by Applicant's use of Applicant's Mark in commerce on Applicant's Goods because such use is likely to cause confusion, mistake, and deceit as to the source of Applicant's Goods.

Wherefore, Opposer respectfully requests that this opposition be sustained and that registration of Applicant's Mark be denied and that the opposed Applications ordered abandoned with prejudice.

Schlotterbeck & Foss Company

By: /Jeffrey Joyce/
Jeffery C. Joyce
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Date: February 26, 2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial Nos. 86149005, 86149018,
Published: December 2, 2014,
and Application Serial No. 86148992
Published: September 2, 2014,
For the mark: ORGANICGIRL GOOD CLEAN FOOD with design

Schlotterbeck & Foss Company,)	
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v.)	Opposition No. _____
)	
Big Idea Holdings, LLC,)	
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Notice of Service

This is to certify that the undersigned caused a true and correct copy of this Notice of Opposition to be mailed by First Class Mail, postage prepaid, and directed to Anne Haring Hocking, Attorney of Record for Applicant, Haring & Smith, LLP, 101 Lucas Valley Rd. Ste. 300, San Rafael, California 94903-1795, on February 27, 2015.

/Jeffrey C. Joyce/
Jeffrey C. Joyce, Esq.